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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,950	09/18/2003	Susan Olvey	OLV-100R	7054

29847 7590 06/15/2006

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EXAMINER
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GABLER, PHILIP FRANCIS

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 06/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/666,950	<b>Applicant(s)</b> OLVEY, SUSAN	
	<b>Examiner</b> Philip Gabler	<b>Art Unit</b> 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 18 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the details (ribs, lock assemblies, etc.) of claim 8 must be shown on an octagonal assembly or the features canceled from the claim. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

3. The abstract of the disclosure is objected to because it exceeds 150 words in length. Correction is required. See MPEP § 608.01(b).

### ***Claim Objections***

4. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 8-18 have been renumbered 9-19.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 9-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Claims 9 and 10 recite the assembly of claim 3 in functional language (i.e. “configured to attach” and “configured for attachment”) giving the impression that the limitations of claim 3 are intended to be included in claims 9 and 10. Accordingly, the claims are deemed indefinite. If it is desired to include the limitations of claim 3 in claims 9 and 10, the claims should indicate this in their preambles (e.g. “The assembled frame of claim 3, further comprising a generally flat...”). Note also that the invention of claim 3 as written is an “assembled frame” and not a “corrugated assembly.”

8. Claim 11 is deemed indefinite as being dependent on an indefinite claim.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-6 and 13-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Ogilvie Jr. et al. (US Patent Number 6029582).

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11. Regarding claims 1 and 4, Ogilvie (Figures 1-5 and 9) discloses a force resisting corrugated assembly foldably constructed from a generally flat blank, the blank having top and bottom ends and sides upon folding, said assembly comprising: a first assembled frame (20), said first frame comprising at least two jack panels (83, 87); at least three ribs (formed by 40, 50, 60), said ribs formed by folding said blank at predetermined locations and locked into place by folding lock assemblies (122, 142, etc. and associated components); and first and second edge panels (81, 89) defined on first and second ends, respectively, of said first frame; and a second frame (22), said second frame comprising at least two jack panels; at least three ribs, said ribs formed by folding said blank at predetermined locations and locked into place by folding lock assemblies; and first and second edge panels defined on first and second ends, respectively, of said second frame (the jack panels, ribs, etc. as in the first frame); wherein said ribs of first and second frames comprise locking slots (210, etc.); wherein said first and second frames are brought together in a perpendicular fashion such that the ribs of the first frame lock into place with the ribs of the second frame (see figures).

12. Regarding claim 2, Ogilvie further discloses folding lock assemblies comprise wing tabs (153) to secure said ribs into place.

13. Regarding claim 3, Ogilvie further discloses two jack panels (83, 87) and four ribs (formed from 40, 50, 60, 70).

14. Regarding claim 5, Ogilvie further discloses said edge panels of said first and second frames are folded over (at 202, etc.) and secured into place (by 102, etc.) before, during, or after the ribs of said first and second frames are locked into place.

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15. Regarding claim 6, Ogilvie further discloses said first and second frames comprise tab locks (153) defined near the periphery of said first and second frames; and edge panels comprise tab holes (formed by 101, etc.); wherein said tab locks and said tab holes are positioned such that tab locks are pushed through tab holes upon edge panels being secured into place, whereby said tab locks increase the holding strength of said edge panels.

16. Regarding claims 13, 16, and 17, Ogilvie further discloses a water resistant coating which is a water-dispersible polymer suspension (see for example column 9 lines 53-55).

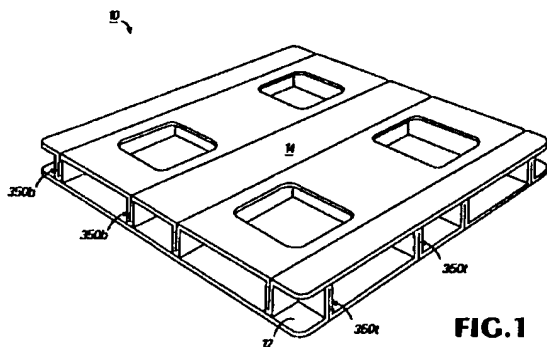
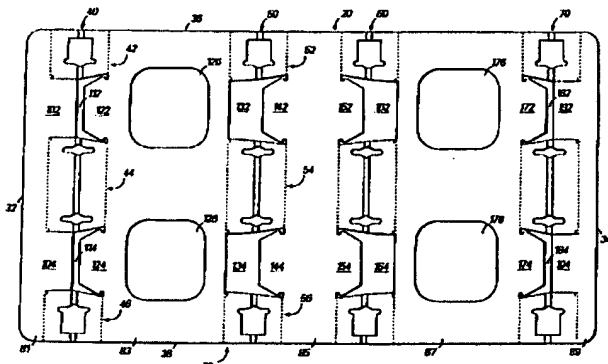
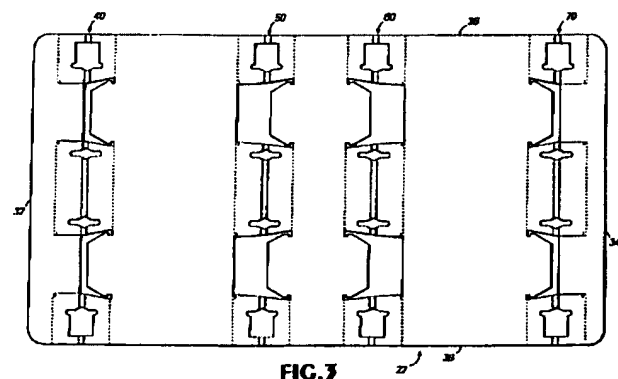
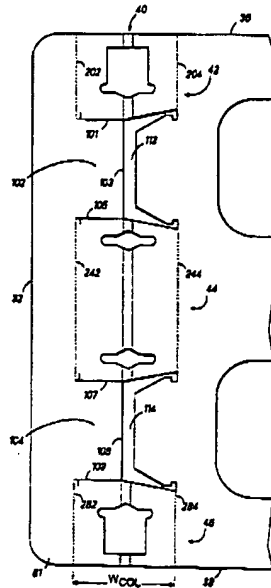
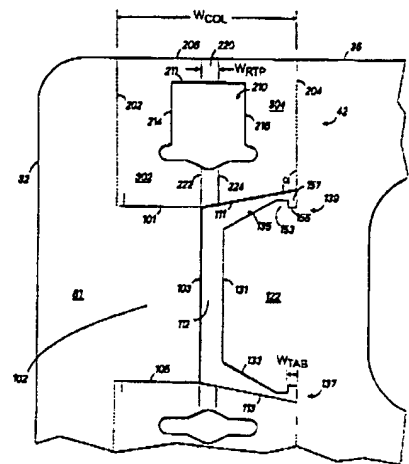
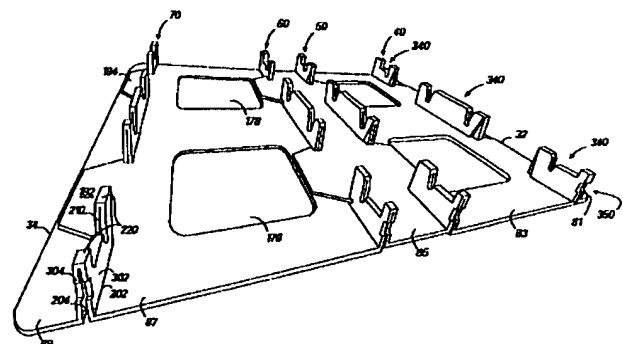
17. Regarding claims 14 and 15, Ogilvie further discloses application of a securing means (adhesive, see column 6 lines 26-29) and application of adhesive for securing the ribs of the first and second frames (see column 17 lines 54-56).

18. Regarding claim 18, Ogilvie discloses a method of constructing a force-resistance corrugated assembly comprising obtaining a first and second frame (each comprising the structural limitations as claimed, see above) and interlocking said first and second frames by bringing them together in a perpendicular fashion such that their ribs lock (see column 16 line 23 to column 17 line 59).

19. Regarding claim 19, Ogilvie discloses a lock assembly to lock the orientation of an upwardly extending rib (formed by 40) foldably constructed from a flat column (40) of a blank, said lock assembly comprising first and second panels (81, 83) on either side of the flat column, and a flap (122) extending from one of said first or second panels, wherein said flap comprises at least two wing tabs (153) on opposing sides of said flap,

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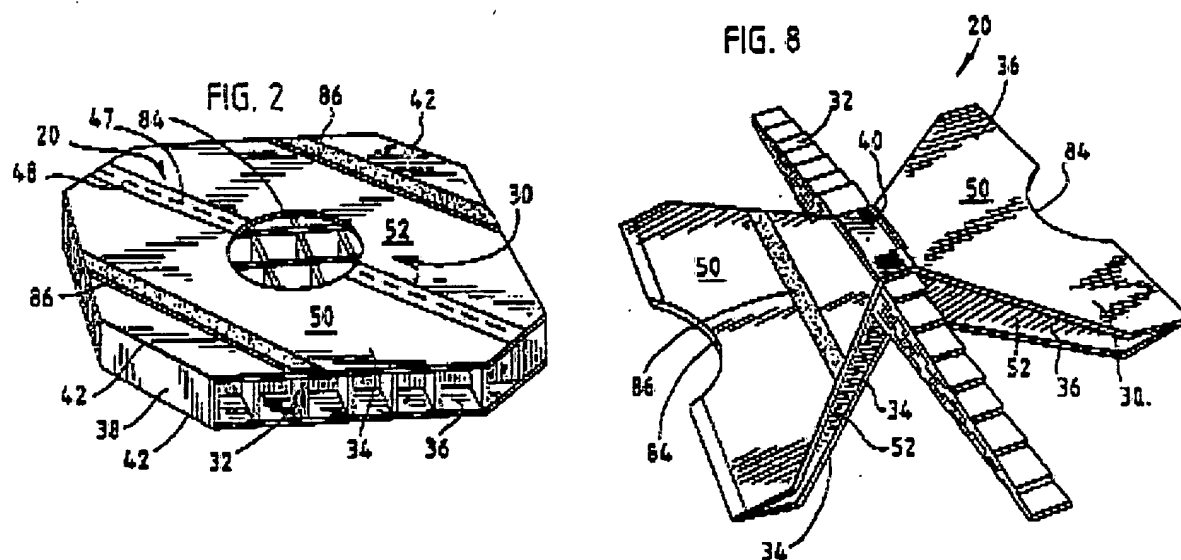
wherein upon folding said first and second panels toward each other, the column folds into the upwardly extending rib, the rib having rib sides with side edges (at ends of rib), wherein said flap folds over said first or second panel and wherein said wing tabs can be raised then pressed down to secure rib into place.

**FIG. 1****FIG. 2****FIG. 3****FIG. 4****FIG. 5****FIG. 9**



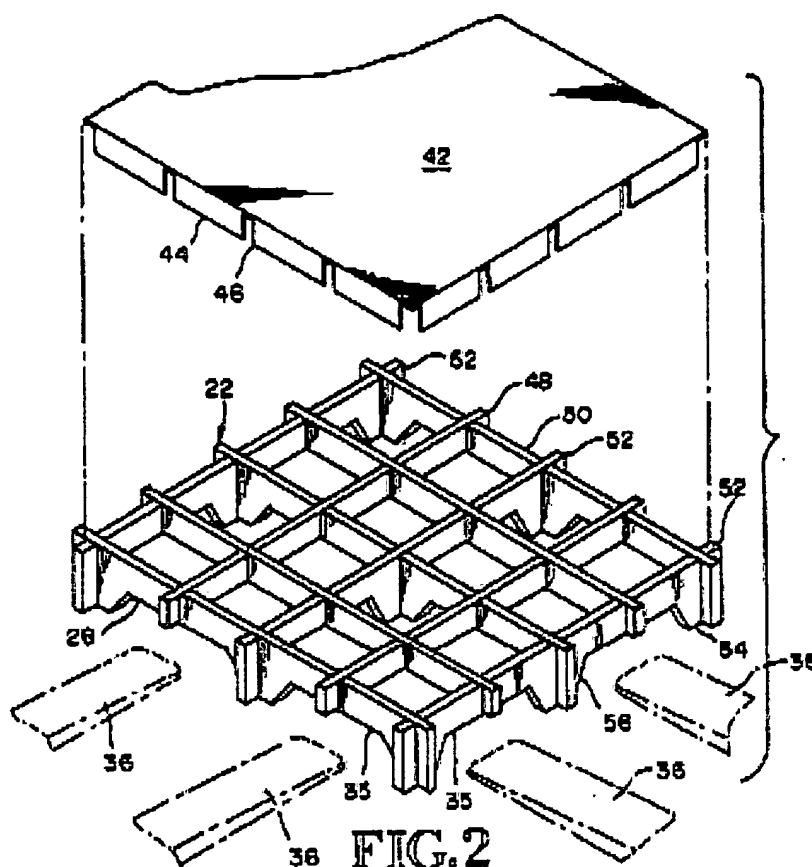
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20. Claims 7 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Haywood et al. (US Patent Number 5484241). Haywood (Figures 2 and 8) discloses a force resisting corrugated assembly foldably constructed from a generally flat blank, said assembly configured to be assembled into the shape of an octagon.



Haywood et al. '241 Figures 2 and 8

21. Claims 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Chilcutt (US Patent Number 6155181). Chilcutt (Figure 2) discloses a generally flat, rectangular corrugated tray (42) comprising a plurality of tab locks (edges of 46) and a wall (44) on all four sides, and which could be attached to an assembly as recited in claim 3.



Chilcutt '181 Figure 2

### ***Claim Rejections - 35 USC § 103***

22. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

23. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogilvie in view of Haywood. Ogilvie discloses a force resisting corrugated assembly foldably constructed from a generally flat blank, said assembly comprising: a first

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assembled frame (20), said first frame comprising at least two jack panels (83, 87); at least three ribs (formed by 40, 50, 60), said ribs formed by folding said blank at predetermined locations and locked into place by folding lock assemblies (122, 142, etc. and associated components); and first and second edge panels (81, 89) defined on first and second ends, respectively, of said first frame; and a second frame (22), said second frame comprising at least two jack panels; at least three ribs, said ribs formed by folding said blank at predetermined locations and locked into place by folding lock assemblies; and first and second edge panels defined on first and second ends, respectively, of said second frame (the jack panels, ribs, etc. as in the first frame); wherein said ribs of first and second frames comprise locking slots (210, etc.); wherein said first and second frames are secured together (see figures). Ogilvie does not disclose an octagonal shape. Force resisting assemblies of various shapes (including octagonal) are well known in the art however, as shown by Haywood, who discloses an octagonal assembly. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use an octagonal shape for Ogilvie's pallet based on the needs and desires of a user.

### ***Conclusion***

24. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Youell Jr. et al. (US Patent Number (RE 35131), Moorman (US Patent Number 5469795), Traudt et al. (US Patent Number 2908464), and Geisler

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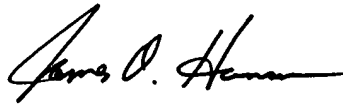
(US Patent Number 2709559) references are cited for disclosing various aspects of the invention of the instant application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip Gabler whose telephone number is (571) 272-6038. The examiner can normally be reached on Monday through Friday, 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PFG   
6/8/2006

  
**JAMES O. HANSEN**  
**PRIMARY EXAMINER**